

Notice of Allowability

Application No.

09/778,224

Examiner

Dwayne K Handy

Applicant(s)

MARQUISS ET AL.

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1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment/arguments filed 04/23/2004.
2. ☒ The allowed claim(s) is/are 23-44.
3. ☒ The drawings filed on 06 February 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Allowable Subject Matter

1. Claims 23-44 are allowed.
2. The following is an examiner's statement of reasons for allowance:

In the previous action, the Examiner stated that claims 7 and 9 would be allowable if they were rewritten in independent form to include all of the limitations of the base claim and intervening claims due to the limitations that were present in these claims. These features have now been incorporated into the newly submitted independent claims 23, 31, 39, and 42. In claim 23 applicant has claimed a stacking station designed to hold a plurality of sample holders in a first stack and a singulation mechanism capable of automatically adding and subtracting sample holders to and from the first stack. The singulation mechanism includes at least one latch and an electromagnet mounted near the latch. The latch is biased into the first stack when the electromagnet is off, while the latch is attracted to the electromagnet and out of the first stack when the electromagnet is on. The latch/electromagnet combination is the feature from the original claim 7 and is not found or suggested by the prior art found by the Examiner. In claim 31 applicant has claimed a first stacking station and a singulation mechanism capable of automatically adding and subtracting sample holders to and from the first stack. In this embodiment the singulation mechanism adds a sample holder to the first stack passively while activation of the electromagnetic switch releases a sample holder from the stack. This singulation mechanism was originally found in claim 9 and is not found or suggested by the prior art. In claim 39 applicant has claimed first and

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second stacking stations, a fluid dispensing system with an array of dispensing tips and a microplate shuttle device that shuttles the microplates between stacking stations. At least one of the stacking stations contains the electromagnetic switch for releasing a microplate from the stack while passively adding another to the stack as in claim 31 (original claim 9). Finally in claim 42 applicant has claimed an analyzer with an examination site, an input site for the sample holder, a shuttle device for carrying the sample holder, and at least one stacking unit along the processing path that contains the electromagnetic switch for releasing a microplate from the stack while passively adding another to the stack as in claim 31 (original claim 9).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Armes et al. (4,676,951), Karl et al. (5,674,454), Ganz et al. (6,148,878), Bevirt et al. (6,193,102), and Kercso et al. (6,495,369) teach devices for stacking microplate or sample cards. Koster et al. (6,730,517) show an automated apparatus with a magnetic drive used in stacking sample plates. Michael et al. (6,652,724) and Mainquist et al. (US 2002/0037237) both teach devices for holding microplates that use biased latches and magnets to align a microplate in the holder.


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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K Handy whose telephone number is (571)-272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DKH
May 28, 2004


Jill Warden
Supervisory Patent Examiner
Technology Center 1700